

ORDINANCE NO. 2016-_____

**AN ORDINANCE OF THE CITY OF SOUTH SALT LAKE CITY COUNCIL
AMENDING SECTIONS 5.08.110 AND 5.08.115 OF THE SOUTH SALT LAKE
CODE REGARDING ALCOHOLIC BEVERAGE ESTABLISHMENT
PROXIMITY AND VARIANCES; BRINGING THE PROVISIONS INTO
COMPLIANCE WITH UTAH STATE CODE AND THE ESTABLISHMENT
CLAUSE**

WHEREAS, the Alcoholic Beverage Control Act as amended and particularly Utah Code Ann. Section 32B-1-202 establishes 600-foot route of travel and 200-foot straight line proximity restrictions for retail licensees, which includes on-premise beer licensees, to community locations, meaning a public or private school, a church, a public library, a public playground, or a public park, and further establishes when and under what circumstances the Alcoholic Beverage Control Commission may grant a variance to reduce the proximity requirement; and

WHEREAS, Utah Code Ann. Section 32B-7-201 allows cities to establish proximity requirements only for premises where beer is sold at retail for off-premise consumption in relation to any public or private school, church, public library, public playground, or public park; and

WHEREAS, Utah Code Ann. Section 32B-1-204 provides that local authorities may not regulate in relation to issues expressly addressed by Title 32B; and

WHEREAS, Sections 5.08.110 and 5.08.115 in the City of South Salt Lake Municipal Code no longer fully comply with the Utah Code in that they allow variances for all establishments selling alcohol and for manufacturers from all community locations, they fail to clarify that the park must be a public park; and they provide that churches must issue written consent for the variance could be in contravention of the Establishment Clause; and

WHEREAS, this council finds it necessary to amend Sections 5.08.110 and 5.08.115 to bring them into compliance with the constitution and State law;

THEREFORE, BE IT ORDAINED by the City Council of the City of South Salt Lake: Section 5.08.110 of the City of South Salt Lake Code is amended to read:

5.08.110 - Proximity restrictions.

Except as otherwise provided in this chapter, the premises of an on-premises consumption licensee such as premises associated with Class B, Class C, and Class MB licenses, and the premises of an establishment selling beer at retail for off-premise consumption may not be located:

A. within 600 feet of a public or private school, church, public library, public playground, or public park, as measured from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the public or private school,

church, public library, public playground, or public park; or

B. within 200 feet of a public or private school, church, public library, public playground, or public park, measured in a straight line from the nearest entrance of the outlet to the nearest property boundary of the public or private school, church public library, public playground, or public park.

Section 5.08.115 of the City of South Salt Lake Code is amended to read:

5.08.115 - Proximity restriction variance.

With respect to the location of an on-premises licensee or the premises of an establishment selling beer at retail for off-premise consumption, the city council may authorize a variance to reduce the proximity requirement of Section 5.08.110 and may also authorize the mayor to give the city's consent to the state's alcoholic beverage control commission if:

- A. when the variance reduces the proximity requirement of subsection 5.08.110B, the location at issue is a public library or a public park;
- B. the city council finds that alternative locations for locating that type of premises in the city are limited;
- C. a public hearing is held; and
- D. after giving full consideration to the attending circumstances, including the proximity of an educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location of a licensee, the city council determines that locating the premises in that location would not be detrimental to the public health, peace, safety, and welfare of the city.

Ordinance in conflict herewith are hereby repealed. This ordinance will take effect upon execution by the Mayor or after fifteen days from transmission to the office of the Mayor if neither approved nor disapproved by the Mayor.

(signatures appear on separate page)

DATED this _____ day of _____, 2016.

BY THE CITY COUNCIL:

Deborah A. Snow, Council Chair

ATTEST:

Craig D. Burton, City Recorder

City Council Vote as Recorded:

Beverly	_____
Kindred	_____
Mila	_____
Pender	_____
Rapp	_____
Siwik	_____
Snow	_____

Transmitted to the Mayor's office on this _____ day of _____, 2016.

Craig D. Burton, City Recorder

MAYOR'S ACTION: _____

Dated this _____ day of _____, 2016.

Cherie Wood, Mayor

ATTEST:

Craig D. Burton, City Recorder